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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,114	05/10/2007	Chul-Sik Yoon	1403-02 PCT US	5012
66547 7590 04/22/2011 THE FARRELL LAW FIRM, P.C. 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER BATISTA, MARCOS				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
04/22/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/578,114	Applicant(s) YOON ET AL.
Examiner MARCOS BATISTA	Art Unit 2617

–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED 15 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because:

In response to Applicant's argument, Eklund, at the following citations, discloses:

Page 102 column 1 line 65 - Page 103 column 2 line 26:

"Burst profiles for the downlink are each tagged with a Downlink Interval Usage Code (DIUC). Those for the uplink are each tagged with an Uplink Interval Usage Code (UIUC).

During initial access, the SS performs initial power leveling and ranging using ranging request (RNG-REQ) messages transmitted in initial maintenance windows. The adjustments to the SS's transmit time advance, as well as power adjustments, are returned to the SS in ranging response (RNG-RSP) messages. For ongoing ranging and power adjustments, the BS may transmit unsolicited RNG-RSP messages commanding the SS to adjust its power or timing.

During initial ranging, the SS also requests to be served in the downlink via a particular burst profile by transmitting its choice of DIUC to the BS. The choice is based on received downlink signal quality measurements performed by the SS before and during initial ranging. The BS may confirm or reject the choice in the ranging response. Similarly, the BS monitors the quality of the uplink signal it receives from the SS. The BS commands the SS to use a particular uplink burst profile simply by including the appropriate burst profile UIUC with the SS's grants in ULMAP messages."

Page 106 column 1 lines 35-49:

"Based on the arrival time of the initial ranging request and the measured power of the signal, the BS commands a timing advance and a power adjustment to the SS in the ranging response. The response also provides the SS with the basic and primary management CIDs. Once the timing advance of the SS transmissions has been correctly determined, the ranging procedure for fine-tuning the power can be performed using invited transmissions."

As can be seen in the cited portions above, Eklund discloses transmitting state control (The adjustments to the SS's transmit time advance, as well as power adjustments, are returned to the SS in ranging response (RNG-RSP) messages) information based on the subscriber channel state (Based on... and the measured power of the signal). The measured power of the signal is used to determine the state of the channel. Eklund also discloses that during initial ranging, the SS also requests to be served in the downlink via a particular burst profile by transmitting its choice of DIUC to the BS. The SS and the BS exchanges state control and bandwidth request as part of an initial access request from the SS to the BS. And, in figure 2, the initial access is part of an uplink subframe structure that includes a bandwidth request. Eklund clearly discloses receiving channel state control from the base station in response to bandwidth request code, which is all part of the initial access request as shown in figure 2.